PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference VM7031426001	FOR FURTHER ACTION	See item 4 below	
International application No. PCT/US2004/028571	International filing date (day/month/year) 03 September 2004 (03.09.2004)	Priority date (day/month/year) 05 September 2003 (05.09.2003)	
International Patent Classification (8th See relevant information in Form F	n edition unless older edition indicated) PCT/ISA/237		
Applicant VARIAN MEDICAL SYSTEMS TECHNOLOGIES, INC.			

1.	This international preliminary rep International Searching Authority		I) is issued by the International Bureau on behalf of the	
2.	. This REPORT consists of a total of 4 sheets, including this cover sheet.			
	In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.			
3.	This report contains indications re	elating to the following items	:	
	Box No. I	Basis of the report		
	Box No. II	Priority		
	Box No. III	Non-establishment of opin applicability	ion with regard to novelty, inventive step and industrial	
	Box No. IV	Lack of unity of invention		
	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
	Box No. VI	Certain documents cited		
	Box No. VII	Certain defects in the intern	national application	
	Box No. VIII	Certain observations on the	e international application	
4.	The International Bureau will connot, except where the applicant m date (Rule 44bis .2).	nmunicate this report to designales an express request unde	gnated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but or Article 23(2), before the expiration of 30 months from the priority	
			Date of issuance of this report 06 March 2006 (06.03.2006)	
	The International Burea 34, chemin des Color 1211 Geneva 20, Swi	mbettes	Authorized officer Ellen Moyse	
Facsin	Facsimile No. +41 22 740 14 35		Telephone No. +41 22 338 89 75	

Form PCT/IB/373 (January 2004)

PATENT COOPERATION TREATY

REC'D	0	1	FEB	2006
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INTERNATIONAL SEARCHING AUTHO	OKITY
To: PETER C. MEI BINGHAM MCCUTCHEN LLP	

From the

PCT

BINGHAM MCCUTCHEN LLP						
THREE EMBARCADERO CENTER, SUITE 1800			WRITTEN OPINION OF THE			
SAN FRANCISCO, CA 94111-4067			INTERNATIONAL SEARCHING AUTHORITY			
			1112214121			
				(PCT Rule 43bis.1)		
			Date of mailing (day/month/year)	30 IAN 2006		
Applicant's or agent's file refere	ence		FOR FURTHER ACTION			
VM7031426001	26001			See paragraph 2 below		
International application No.	Intern	national filing date	(day/month/year) Priority date (day/month/year)			
PCT/US04/28571	03 September 2004 (03		09.2004)	05 September 2003 (05.09.2003)		
International Patent Classification	on (IPC) or both	national classificat	ion and IPC			
IPC(7): A61B 5/00 and US Cl.:	600/428					
Applicant						
VARIAN MEDICAL SYSTEM	S TECHNOLO	GIES, INC.				
1. This opinion contains indic	ations relating to	the following item	s:	,		
Box No. I Ba	sis of the opinio	n				
Box No. II Pr	Priority					
Box No. III No	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability					
Box No. IV La	Lack of unity of invention					
Box No. V Re	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement					
Box No. VI Co	Certain documents cited					
Box No. VII Co	ertain defects in t	he international app	olication			
Box No. VIII Co	rtain observation	ns on the internation	nal application			
2. FURTHER ACTION				•		
If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.						
IPEA a written reply togeth	If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.					
1	For further options, see Form PCT/ISA/220.					
3. For further details, see note	s to Form PCT/I	SA/220.				
Name and mailing address of th	211/A21 a	Date of comple	tion of this opinion	Authorized officer		
Mail Stop PCT, Attn: ISA		1	_	For Eleni Mantis Mercader		
Commissioner for Patent P.O. Box 1450	S	27 November 2	005 (27.11.2005)	Elem Manus Mercader		
Alexandria, Virginia 223	13-1450			Telephone No. 703 308-0858		

Facsimile No. (571) 273-3201
Form PCT/ISA/237 (cover sheet) (April 2005)

International application No.	
PCT/US04/28571	

Box No. I Basis of this opinion
1. With regard to the language, this opinion has been established on the basis of:
the international application in the language in which it was filed
a translation of the international application into, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
a. type of material
a sequence listing
table(s) related to the sequence listing
b. format of material
on paper
in electronic form
c. time of filing/furnishing
contained in the international application as filed.
filed together with the international application in electronic form.
furnished subsequently to this Authority for the purposes of search.
In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:
DOMES A 1997 (Dec. No. 1) (A: 1 2005)

Form PCT/ISA/237 (Box No. V) (April 2005)

International application No. PCT/US04/28571

Statement		
Novelty (N)	Claims 1-63	Y
	Claims NONE	N
Inventive step (IS)	Claims 1-63	Y
	Claims NONE	
Industrial applicability (IA)	Claims 1-63	Y
	Claims NONE	N
Citations and explanations: ims 1-63 meet the criteria set out in PCT Article siological gating by determining a composite in	: 33(2)-(3), because the prior art does not teach or nage from a first and a second sequence of image	r fairly suggest performing s.
ims 1-63 meet the criteria set out in PCT Article nade or used in industry.	e 33(4), and thus have industrial applicability bec	ause the subject matter claimed

REC'D	0	1	FEB	2006
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Authorized officer

For
Eleni Mantis Mercader

Ungruca

Telephone No. 703 308-0858

			PATENT COOPE	RATION TRE	ATY	HECA O 1 E	FEB 2006
From the INTERNAT	TIONAL SEARC	HING AUTH	ORITY			WIPO	PCT
To: PETER C BINGHA THREE E			WR INTERNATIO	ITTEN O	CT PINION OF TARCHING A	гне	
1				Date of mailing		Rule 43 <i>bis</i> .1)	
Ĺ				(day/month/year)	3	<u>0 .14N 20</u> 1	<u> 96</u>
Applicant	's or agent's file r	eference	•	FOR FURTHER	ACTION See paragra	oh 2 below	
VM70314				_			
Internation	nal application No	o .	International filing date	(day/month/year)	İ	ate (day/month/ye	•
PCT/US0	4/28571	- 4: (M)(A)	03 September 2004 (03.0 or both national classificat	09.2004)	05 Septen	nber 2003 (05.09.	.2003)
Internatio	nai Patent Classit	ication (IPC)	or both national classificat	ion and iPC			
IPC(7): A Applicant	61B 5/00 and US	Cl.: 600/428					
VARIAN	MEDICAL SYS	TEMS TECHI	NOLOGIES, INC.				
1. This	opinion contains i	ndications rel	ating to the following item	s:			•
	Box No. I	Basis of the	opinion				
	Box No. II	Priority					
	Box No. III	Non-establi	ishment of opinion with re	gard to novelty, inver	itive step an	d industrial appli	icability
	Box No. IV	Lack of uni	ty of invention				
\boxtimes	Box No. V		tatement under Rule 43 <i>bis</i> ; y; citations and explanation			ventive step or in	ndustrial
	Box No. VI	Certain doc	uments cited				
	Box No. VII	Certain defe	ects in the international app	plication			
	Box No. VIII	Certain obs	ervations on the internation	nal application			
2. FUR	THER ACTIO	N				•	
If a c Intern Autho	lemand for intern national Prelimina ority other than the	ational prelimary Examining is one to be to	ninary examination is mading Authority ("IPEA") ex the IPEA and the chosen onal Searching Authority of	cept that this does IPEA has notified the	not apply e Internation	where the appli	icant chooses an
IPEA of Fo	a written reply to rm PCT/ISA/220	ogether, where or before the	e, considered to be a writt e appropriate, with amend expiration of 22 months from	ments, before the exp	piration of 3	months from the	to submit to the e date of mailing
For fi	urther options, see	Form PCT/IS	SA/220.				
3. For fi	urther details, see	notes to Form	PCT/ISA/220.				

Date of completion of this opinion 27 November 2005 (27.11.2005)

Name and mailing address of the ISA/ US
Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
Facsimile No. (571) 273-3201
Form PCT/ISA/237 (cover sheet) (April 2005)

International	application No.
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PCT/US04/28571

Box No. I Basis of this opinion
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a translation of the international application into, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
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on paper
in electronic form
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filed together with the international application in electronic form.
furnished subsequently to this Authority for the purposes of search.
In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

International application No. PCT/US04/28571

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement		
Novelty (N)	Claims 1-63	YES
	Claims NONE	NO
Inventive step (IS)	Claims 1-63	YES
11,511,750p (m)	Claims NONE	NO
Industrial applicability (IA)	Claims 1-63	YES
	Claims NONE	NO
2. Citations and explanations:		
Claims 1-63 meet the criteria set out in PCT Article physiological gating by determining a composite in	e 33(2)-(3), because the prior art does not teach or mage from a first and a second sequence of images.	airly suggest performing
Claims 1-63 meet the criteria set out in PCT Article be made or used in industry.	e 33(4), and thus have industrial applicability becar	use the subject matter claimed can
		•
		D.
Form PCT/ISA/237 (Box No. V) (April 2005)		